85-1238

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

No.

TALLEY R. HOLMES, JR.,

Petitioner,

v.

DISTRICT OF COLUMBIA DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE DISTRICT OF COLUMBIA COURT OF APPEALS

PETITION FOR WRIT

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QUESTION PRESENTED

Did the District of Columbia Court of Appeals err when it refused to review the petitioner's challenge to the Constitutionality of enforcement of the District of Columbia Housing Regulations.

TABLE OF CONTENTS

Page

JURISDICTION 2

QUESTION PRESENTED. 2

STATEMENT OF FACTS. 2

REASONS FOR GRANTING THE WRIT 4

The Court of Appeals Decision is a Refusal To Recognize That Constitutional Protections of the Fourth and Fifth Amendments are Not Followed in the Application of the District of Columbia Housing Code 4

CONCLUSION 8

CERTIFICATE OF SERVICE 8

APPENDIX A – Opinion Below, dated October 24, 1985 . . . . . 1a

APPENDIX B – Statutes Involved – Chapters 1-8 of the D.C. Housing Regulations 3a

TABLE OF AUTHORITIES

Camara v. Municipal Court, 387 U.S. 523 (1967). 7

Collonnade Catering Corp. v. United States, 397 U.S. 72 (1970). 7

See v. City of Seattle, 387 U.S. 541 (1967) 7

United States v. Bisell, 406 U.S. 311 (1972). 7

Whetzel v. Jess Fisher Management Co., 282 F.2d 943 (D.C. Cir. 1960) 6

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PETITION FOR WRIT

Petitioner Talley R. Holmes, Jr., prays that a writ of certiorari issue to review the judgment of the District of Columbia Court of Appeals entered on October 24, 1985 affirming the decision of the District of Columbia Department of Consumer and Regulatory Affairs regarding the legal status of the District of Columbia Housing Regulations.

OPINION BELOW

The District of Columbia Court of Appeals issued a memorandum opinion and judgment on October 24, 1985 which affirmed the petitioner's conviction in all respects. That opinion and judgment are attached to this petition in Appendix A at page 1a.

JURISDICTION

The judgment of the District of Columbia Court of Appeals was entered on October 24, 1985. The jurisdiction of this Court to review the decision below is conferred by 28 U.S.C. 1257(3).

QUESTION PRESENTED

Did the District of Columbia Court of Appeals err when it refused to review the petition's challenge to the Constitutionality of enforcement of the District of Columbia Housing Regulations.

STATUTES INVOLVED

The petitioner was found in violation of the District of Columbia Housing Code. The applicable provisions of the District of Columbia Housing Code are reproduced in Appendix B at page 3a.

STATEMENT OF FACTS

Petitioner seeks review of the October 24, 1985 decision of the District of Columbia Court of Appeals which denied his request to review a decision by the District of Columbia Board of Appeals and Review which affirmed violations of the District of Columbia Housing Code.

During the first two months of 1984, the petitioner, a landlord in the District of Columbia, was cited with Housing Code violations on three different properties in the District of Columbia. These violations arose out of an inspection conducted by District of Columbia agents for purposes of a housing license inspection. The petitioner challenged these searches before the District of Columbia Board of Appeals and Review where he argued that such violations were the product of illegal searches that were conducted in violation of due process of law in that inspectors could only inspect for the nineteen items cited in the licensing Code found, except for two, in the common areas of a building and were not authorized under the Housing Regulations of the District of Columbia to search for the Housing Code violations of Chapters 1 and 2 of the Regulations. The Board of Appeals and Review declined to dismiss the violation notices. The petitioner appealed that decision and again attempted to challenge the right of entry for such inspection by arguing to the Court of Appeals that a general licensing inspection does not authorize an inspection of individual dwelling units of a multi-family building in search of Housing Code violations.

The District of Columbia Court of Appeals rejected the position of the petitioner and affirmed the decision of the Board of Appeals and review by a memorandum opinion dated October 24, 1985.

REASONS FOR GRANTING THE WRIT

THE COURT OF APPEALS DECISION IS A REFUSAL TO RECOGNIZE THAT CONSTITUTIONAL PROTECTIONS OF THE FOURTH AND FIFTH AMENDMENTS ARE NOT FOLLOWED IN THE APPLICATION OF THE HOUSING CODE OF THE DISTRICT OF COLUMBIA

Appellant submits that the District of Columbia Court of Appeals is in fundamental disregard of the Fourth Amendment and the Due Process Clause of the Fifth Amendment when it continues, as it did in the present case, to incorporate by reference Chapters 1 and 2 to the housing regulations into Chapter 3. While this seemingly technical argument may appear deceptively simple, it has significant legal consequences.

Chapter 3 of the District of Columbia Housing Code sets forth the procedures necessary for obtaining a housing business license. This license is required of all landlords before a property is rented within the District of Columbia. In order to obtain this license, an applicant submits a request to the licensing authority which normally results in an inspection for nineteen items which, except for two, are found in the building's common area.[1] Such license inspections are required on a yearly basis for all property that is rented in the District of Columbia.

For a number of years, however, the District of Columbia has conducted housing code inspections under the guise of licensing inspections. Thus, any landlord who applied for a housing business license would, at the same

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[1] Those two allowable items of inspection normally not found in the common areas are mattresses (if supplied by the landlord) and to determine if the heating and cooking equipment are properly installed.

time be inspected for conformance with the District of Columbia Housing Code. This inspection would be performed without permission of the landlord or warrant and would, in fact, be in violation of the "reasonable basis requirements of Chapters 1 and 2 of the Housing Regulations.[2]

As the Court of Appeals decision in the present case makes clear, the District of Columbia performs these inspections under the claim that Chapters 1 and 2 of the Housing Regulations (the chapters that actually contain the District's Housing Code regulations), are incorporated into Chapter 3 (which allows the right of entry when a license is sought). The District's position is that an application for a license is also a carte blanche to conduct inspections, searches and seizures for all violations of the law.

The Housing Code however does not incorporate by reference or otherwise this section. Rather, both Chapters 1 and 2 require reasonable grounds to believe a violation exists before inspection and citation. These requirements are not found in Chapter 3 and are applicable only to Chapters 1 and 2. Thus, before any inspection for Chapter 1 or 2 violations can take place, the provisions of the Fourth and Fifth Amendments must be followed by government authority. These provisions have regularly been disregarded by the District of Columbia for years with regard to housing inspections.

The Court of Appeals has consistently misconstrued the incorporation assumption based upon a mistake of

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[2] There is no allegation that the Section 1 and 2 Code violations in the present case were inspected as the result of tenant complaints. They were the result of inspections made on the sole initiative of an inspector supposedly conducting a licensing (Chapter 3) inspection.

fact in an opinion by Judge Bazelon of the United States Court of Appeals for the District of Columbia Circuit made over 25 years ago: *Whetzel v. Jess Fisher Management Co.*, 282 F.2d 943 (D.C. Cir. 1960). The opinion in *Whetzel* included *dicta* that Chapters 1 and 2 were specifically incorporated into Chapter 3. 282 F.2d at 948. This conclusion was not true then and it is not true now. (See, D.C. Housing Regulations reproduced in part at Appendix B.) These chapters were never incorporated. Yet courts, including the Court of Appeals in the present case below, have blindly parroted this incorrect fact.

The social cost of such a policy reaches far beyond that of infringement of individual liberties. It has inevitably resulted in an initial reluctance, and an eventual refusal of local business people to commit financial resources to providing affordable and decent housing facilities in the District of Columbia. No one is willing to commit themselves to a system which requires the relinquishment of valuable individual rights which are taken for granted in every other walk of American life. While under the guise of consumer protection, the policy has, in effect, destroyed the housing market for low and moderate housing consumers in the District of Columbia for no one wishes to run the risk of being hauled before a court without due process of law and subject themselves to fines and imprisonment. The utilization of such tactics has distorted beyond recognition the original purpose of urban renewal efforts. The Housing Regulations, which were intended to preserve and maintain housing for low and moderate income persons has become the instrumentality for the destruction of this housing on their hands.

The petitioner submits that the law has a responsibility to correct the mistake made twenty-five years ago in *Whetzel, supra*. An absolute requirement that the Fourth

Amendment demands search warrants may not be necessary for situations such as the present. However, it should be clear that searches *without statutory authority or even probable cause*, as in the instant case are not permitted under the Housing Regulations of the District of Columbia (Chapters 1 and 2) and cannot be tolerated under the Constitution.

The decision by the Court of Appeals in the present case is in conflict with a number of decisions by this Court in the area of administrative searches. In *Colonnade Catering Corp. v. United States*, 397 U.S. 72 (1970) this Court held that government agents could not enter a storeroom for purposes of a search without a warrant. The Court concluded:

> Where Congress has authorized inspection but made no rules governing the procedure that inspectors must follow, the Fourth Amendment and its various restriction apply. 397 U.S. at 77

Other decisions of this Court have also imposed the warrant requirement in similar circumstances, *See v. City of Seattle*, 387 U.S. 541 (1967), or imposed strict rules for warrantless searches. *United States v. Biswell*, 406 U.S. 311 (1972). If Constitutional protections are to be more than a hollow promise it must be applicable to all citizens in all circumstances—even those that may not be obviously related to criminal conduct. *See Camara v. Municipal Court*, 387 U.S. 523 (1967). The Court of Appeals' attempt in the present case to wipe out the Fourth and Fifth Amendments by the fancy footwork of an incorporation that never took place should not be permitted to prevent the application of the protections of the Constitution to all citizens.

CONCLUSION

Wherefore, petitioner respectfully prays for the foregoing reasons that the Order of October 24, 1985 be reversed and his case remanded with appropriate directions.

Respectfully submitted,

DENNIS M. HART
301 Eye Street, N.W.
Washington, D.C. 20001
(202) 347-6100
Counsel for Petitioner.

CERTIFICATE OF SERVICE

I, Dennis M. Hart, certify that a true and correct copy of the foregoing petition was served, by mail, with first class postage prepaid, upon the Office of the Corporation Counsel for the District of Columbia, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004, this 22nd day of January, 1986.

_____

Dennis M. Hart

APPENDIX A

Filed Oct 24 1985

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 84-1670

TALLEY R. HOLMES, JR., Petitioner,

v.

DISTRICT OF COLUMBIA DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS, Respondent.

On Petition for Review of a Decision of the District of Columbia Board of Appeals and Review

(Submitted October 21, 1985
Decided October 24, 1985)

Before NEBEKER and MACK, Associate Judges, and PAIR, Associate Judge, Retired.

MEMORANDUM OPINION AND JUDGMENT

This appeal is from a determination of the District of Columbia Board of Appeals and Review, in a housing code violation case.

Appellant does not dispute the existence of the conditions cited in the violations notice. He challenges instead the incorporation of Chapters 1 and 2 of the housing regulations, setting minimum housing standards, into Chapter 3, outlining licensing procedures. This theory, appellant argues, allows a licensing inspector to issue

housing code violation notices. Although endorsed by the courts, a theory which supports such a procedure should be abandoned, he argues.

This court has heard and rejected appellant's reading of the housing code on two prior occasions. *See Tailey R. Holmes v. District of Columbia Board of Appeals and Review*, 351 A. 2d 518 (D.C. 1978); *Talley R. Holmes v. District of Columbia Board of Appeals and Review*, 421 A.2d 27 (D.C. 1980), *cert. denied*, 450 U.S. 951 (1981). *See also Whetzel v. Jess Fisher Management Co.*, 108 U.S. App. D.C. 385, 282 F.2d 943 (1960).

Accordingly, it is

ORDERED and ADJUDGED that the order appealed from be, and the same is hereby affirmed.

FOR THE COURT:

/s/ Alan I. Herman
Alan I. Herman
Clerk

Copies to:

Kathleen S. Rice, Esq.
1101 - 17th St., NW, #1004 (36)

Charles L. Reischel, Esq.
Deputy Corporation Counsel

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APPENDIX B

Applicable Provisions of
District of Columbia Housing Regulations

THE HOUSING REGULATIONS
of the
DISTRICT OF COLUMBIA

ESTABLISHED AND AUTHORIZED BY
COMMISSIONERS' ORDER DATE AUGUST 11, 1955.

CHAPTER 1.

INTERPRETATION, DEFINITIONS AND GENERAL PROVISIONS

ARTICLE 130

NOTICE, AND APPEAL AND HEARING

Section 1301—Notice.

Whenever any duly designated agent of the District of Columbia determines that there are reasonable grounds to believe that there exists a violation of any provision of these regulations, he shall make a report to the Director of the Department of Licenses and Inspections of the District of Columbia, who shall, in his discretion, give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided. Such notice shall:

1301.1 Be in writing and be signed by the head of the Housing Division of the Department of Licenses and Inspections or his authorized agent.

1301.2 State the nature of the violation.

1301.3 Indicate the section or sections of these regulations which are being violated.

1301.4 Allow a reasonable time for the performance of any act such notice requires, and,

1301.5 Be served upon the person or persons responsible for correcting the violation described in the notice. Such notice shall be deemed to be properly served upon such person if a copy thereof is served upon him personally; or if left at his usual place of business or at his usual residence with a person over the age of 16 years then employed or resident therein; or if no such residence or place of business can be found in the District of Columbia by reasonable search, if left with any agent of the person to be notified, which agent has any authority or duty with reference to the premises to which such notice relates, or if left at the office of such agent, with any person employed therein; or if mailed postage prepaid to the last known address of the person to be notified and not returned by the Post Office authorities; or if no address be known or can by reasonable diligence be ascertained, or if any notice mailed as authorized by the preceding clause of this section be returned undelivered by the Post Office authorities, or if by reason of an outstanding unrecorded transfer of title the name of the owner in fact cannot be ascertained by a reasonable search, if published on three consecutive days in a daily newspaper published in the District of Columbia.

Sec. 1302—Appeal and Hearing.

1302.1 Any owner, licensee, or operator of any premises subject to the provisions of these regulations who is adversely affected by a determination made under the authority of these regulations may file an appeal in writing with the Board of Appeals and Review. Such appeal shall be filed within the period specified in the notice of violation for compliance therewith but in no case more than 30 days after the date of service of such notice: *Except,* where a request for a variance has been submitted to the Director or Deputy Director of Licenses and Inspections in accordance with the provisions of section 2702 of these regulations, such appeal shall be filed within 10 days after the date of service of the notice of the final determination on such request for variance.

1302.2 The Board of Appeals and Review shall provide the appellant with an opportunity for a hearing before its agent, a Hearing Examiner, and, if the appellant so requests, shall in addition permit him to present oral argument before the Board itself. The decision of the Board of Appeals and Review sustaining, modifying, or vacating notices issued under the authority of these regulations shall be final.

CHAPTER 2.

THE HOUSING CODE OF THE DISTRICT OF COLUMBIA

ARTICLE 210

PURPOSE, SCOPE, RIGHT OF ENTRY, PENALTY AND INDEPENDENCE OF SECTIONS

Section 2101—Purpose of Regulations.

The Commissioners of the District of Columbia hereby find and declare that there exist residential buildings and areas within said District which are slums or are otherwise blighted, and that there are, in addition, other such buildings and areas within said District which are deteriorating and are in danger of becoming slums or otherwise blighted unless action is taken to prevent their further deterioration and decline.

The Commissioners further find and declare that such unfortunate conditions are due, among other circumstances, to certain conditions affecting such residential buildings and such areas, among them being the following: dilapidation, inadequate maintenance, overcrowding, inadequate toilet facilities, inadequate bathing or washing facilities, inadequate heating, insufficient protection against fire hazards, inadequate lighting and ventilation, and other insanitary or unsafe conditions.

The Commissioners further find and declare that the aforesaid conditions, where they exist, and other conditions which contribute to or cause the deterioration of residential buildings and areas, are deleterious to the health, safety, welfare and morals of the community and its inhabitants.

The Commissioners, accordingly, promulgate these regulations for the purpose of preserving and promoting the public health, safety, welfare, and morals.

Sec. 2101–Scope.

The regulations contained in this Code shall apply to every premises or part thereof occupied, used, or held out for use as a place of abode for human beings.

Sec. 2103–Right of Entry.

Any duly designated agent of the District of Columbia is authorized, at all reasonable hours, lawfully to enter any premises for the purpose of enforcing these regulations.

Sec. 2104–Penalty.

Any person who fails to comply with any provision of this Code after expiration of the time for compliance established in accordance with this Code shall upon conviction be punished by a fine not to exceed $300., or by imprisonment for not to exceed 10 days, in lieu of or in addition to any fine, for such failure to comply. In the event of any failure so to comply, each and every day such violation continues shall constitute a separate offense, and the penalties prescribed above shall be applicable to each such separate offense, except that no further penalties shall be imposed for the period during which any appeal from a conviction of such offense is pending.

Sec. 2105–Independence of Sections.

Each section and every part of each section of this Code is hereby declared independent of every other section or part hereof, and the finding or holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

CHAPTER 3.

GENERAL LICENSING REGULATIONS

ARTICLE 310

SCOPE, LICENSING, INSPECTION, RIGHT OF ENTRY, POSTING OF LICENSES, AND REGISTRATION OF MANAGERS

Section 3101–Scope.

This Chapter 3 of the Housing Regulations of the District of Columbia shall be applicable to housing businesses licensed under the authority contained in paragraph 28 of Section 7 of the Act approved July 1, 1902, as amended (Sec. 47-2328, D.C. Code, 1951 edition). *Provided,* That whenever any provision contained in this Chapter 3 shall conflict with or supercede a provision contained in Chapter 1 or 2, the provision contained in this Chapter shall be applicable.

Sec. 3102–Licensing.

"3102.1 No person shall operate a housing business in any premises in the District of Columbia without first having been issued a housing business license for such premises by the Superintendent of Licenses and Permits. No license to operate a housing business may be issued or retained if the Chief of Police determines that the applicant therefor or the licensee is not a person of good character. *Provided:* That an adverse report may be appealed to the Board of Appeals and Review (C.O. No. 57-3191)

3102.2 No license to operate or conduct a particular housing business in premises not approved during the immediately preceding license period and currently zoned or excepted for such use in the District of Columbia shall be issued until the Director of the Department of

Licenses and Inspections has determined that the applicable provisions of these regulations have been observed. (C.O. No. 57-3191)

3102.3 The Superintendent of Licenses and Permits may upon application issue a renewal of a valid housing business license subject to subsequent determination that the applicable provisions of these regulations are being observed. Any licensee who fails to comply with the applicable provisions of these regulations after due notice of deficiencies may have his license suspended or revoked. (C.O. No. 57-3191)

Sec. 3103—Inspection.

The Director of Licenses and Inspections, the Fire Chief, the Director of Public Health, and the Director of Public Welfare shall inspect every licensed housing business and any premises for which a housing business license application has been filed with the District of Columbia, and the Chief of Police shall inspect every licensed housing business, as follows:

3103.1 The Director of Licenses and Inspections to determine conformity with the applicable provisions of the license laws and regulations, and to require that the building or part thereof comply with the applicable provisions of the laws and regulations enforced by him relating to buildings and appurtenances thereof.

3103.2 The Fire Chief to require that the premises comply with the applicable provisions of the laws and regulations enforced by him relating to fire prevention and control.

3103.3 The Director of Public Health to require that the premises comply with the applicable provisions of the laws and regulations enforced by him relating to public health.

3103.4 The Chief of Police to require that the operator comply with the applicable provisions of the laws and regulations enforced by him relating to the operation of housing businesses.

3103.5 The Director of Public Welfare to determine conformity with the provisions applicable to general administration and the welfare and comfort of convalescents in convalescent homes.

Sec. 3104—Right of Entry.

3104.1 The District of Columbia, both prior to the issuance of a housing business license and during the license period, shall have the right at all reasonable hours to enter and inspect the premises occupied or to be occupied by such housing business: *Provided*, That whenever an operator claims that any portion of such premises is under the exclusive control of a tenant, and he has so notified the Superintendent of Licenses and Permits, in accordance with the requirements of Commissioners' Order 301,260/10, dated September 14, 1948, as amended, the District will make no inspection of that portion of such premises so designated without first having obtained from the tenant or his agent permission to make the inspection required by the Act approved July 22, 1947, and these regulations: *Provided further*, That if any tenant of a housing business persists in refusing to authorize an inspection of that portion of such premises under his exclusive control, he shall be in violation of these regualtions.

3104.2 Refusal to permit the District of Columbia to inspect the premises occupied or to be occupied by such housing business shall be cause for withholding the issuance of a license therefor until such time as inspection is permitted, or for the revocation of any existing license.

Sec. 3106—Registration and Certification of Manager.

Where the manager or a housing business is other than the license, such manager shall within 30 days after promulgation of these regulations, register his or her full name and address, and the location of such housing business of which he or she is manager, with the License Officer for the police precinct in which said housing business is located, and such manager of a housing business that is first opened for business after promulgation of these regulations shall register in like manner within five (5) business days after the opening of said business. In the event the position of manager is created for an existing housing business or a change in management of an existing housing business is made, such new manager shall register with the License Officer of the police precinct as indicated above, within five (5) business days thereafter. No person shall manage a housing business if the Chief of Police determines that such person is not of good character: *Provided*, That an adverse report on such person may be appealed to the Board of Appeals and Review.

ARTICLE 320

OPERATION OF HOUSING BUSINESSES

Section 3201—Commercial Occupancies.

No person shall rent or offer for rent any habitation or operate any housing business in any building or part thereof in which there is another business, trade or commercial activity from which noxious gases, fumes, mists, vapors, dusts, offensive odors, or excessive noise arise or are generated.

Sec. 3202–Mattresses.

When furnished by the operator, mattresses shall not be made of moss, sea grass, excelsior, husks, or shoddy.

Sec. 3202–Locks and Keys.

The owner or operator shall provide to each tenant, when the tenant first enters into possession of a habitation, an adequate lock and key for each door used an an entrance to or egress from such habitation, and shall keep each such lock in good repair. Such lock shall be capable of being locked from inside and outside the said habitation.

Sec. 3204–Stairs and Hallways.

The artificial illumination of stairs and hallways shall be arranged and maintained to provide illumination from sunset to sunrise and at other times when daylight does not provide illumination of an intensity of at least six foot candles at the tread and floor level.

Sec. 3205–Receptacles for Ashes, Garbage, and Refuse.

The tenant of each dwelling unit in multiple dwellings shall provide as needed for his own use sufficient, lawful and separate receptacles for the storage of ashes, garbage and refuse in his own unit. All garbage, refuse and ashes of each unit shall be placed by the occupant in such receptables and transferred by him to the designated place of common storage on the premises unless such collection and transfer is provided by the operator.

Sec. 3206–Combustible Refuse and Debris.

3206.1 It shall be the duty of the operator to maintain the premises, excepting those portions under the exclusive control of the tenant or tenants thereof, free from combustible refuse and debris, accumulated grease or oil spillage.

3206.2 The operator or any tenant shall not permit the accumulation of rags, waste paper, broken furniture or any combustible junk in any portions of the premises under his respective control.

Sec. 3207—Heating and Cooking Appliances.

3207.1 Heating and cooking appliances shall be installed and maintained in accordance with the fire prevention and protection requirements of the applicable D.C. laws and regulations. (For information see Building Code, Plumbing Code, Electrical Code, Gas Fitting Regulations, Smoke and Boiler Regulations, and Police Regulations.)

3207.2 The operator shall be responsible for the fire-safe installation and maintenance of all heating and cooking appliances furnished by him. Where appliances are furnished by the tenant, the tenant shall be responsible for meeting the District laws and regulations on fire protection and prevention.

3207.3 Oil heaters shall be flue-connected and installed in accordance with Section 5 of Article XXXVII of the D.C. Police Regulations.

3207.4 Ashes shall not be placed in combustible receptacles, nor on or against conbustible materials.

3207.5 The operator shall maintain each incinerator, shaft, spark arrester and hopper door in a fire-safe condition.

3207.6 It shall be the duty of the operator to keep each gas meter room free from combustible material, and maintain the required ventilation for such room.

3207.7 All heating and cooking facilities and appliances, flues, chimneys and parts thereof shall be maintained in a fire-safe condition.

Sec. 3208—Egress Facilities.

3208.1 It shall be the duty of the operator to keep fire escapes, stairways, and other egress facilities in a good state of repair and free from obstruction.

3208.2 The operator shall keep exterior stairways and fire escapes painted.

3208.3 The operator shall maintain all fire doors for vertical and horizontal communications in an openable condition in accordance with their required function.

3208.4 The operator shall keep all public and exit corridors free of obstructions.

Sec. 3209—Exit and Emergency Lights and Directional Signs.

3209.1 It shall be the duty of the operator to maintain in an operable condition all emergency and exit lights.

3209.2 The operator shall maintain lighted exit and emergency lights from sunset to sunrise, and at other times when conditions warrant.

3209.3 The operator shall maintain all exit directional signs.

Sec. 3210—Fire Alarm Systems.

3210.1 The operator shall maintain in an operable condition all required fire alarm systems.

2310.2 The operator shall provide and maintain informative signs concerng the operation of the local fire alarm system at each striking station.

3210.3 Each operator shall post and maintain signs referring to fires in accordance with Article XXXVII (37), D.C. Police Regulations.

Sec. 3211–Fire Extinguishing Equipment.

The operator shall maintain all required fire extinguishing equipment in an operable condition.

Sec. 3212–Fireproofing.

The operator shall maintain all required fireproofing and all fire protective construction in a good state of repair.

* * *

CHAPTER 4.

SPECIAL LICENSING REGULATIONS RELATING TO ROOMING AND BOARDING HOUSES

ARTICLE 410

GENERAL

Section 4101—Incorporation of Chapters 1, 2, and 3 by Reference.

Chapters 1, 2, and 3 of these Housing Regulations of the District of Columbia are incorporated in this Chapter 4 and made a part hereof, and the provisions contained in said Chapters 1, 2, and 3, together with the provisions contained in this Chapter 4, shall be applicable to premises used or held out for use as a rooming or boarding house: **Provided,** That whenever any provision contained in this Chapter 4 shall conflict with or supersede a provision contained in Chapters 1, 2, or 3, the provision contained in this Chapter shall be applicable.

Sec. 4102—Scope.

This Chapter 4 of The Housing Regulations of the District of Columbia shall be applicable to every building or part thereof occupied or used or held out for use as a rooming house or boarding house.

Sec. 4103—Resident Manager.

Where the licensee does not reside in person on the premises and superintend in person the operation or conduct of the rooming or boarding house, he shall designate therefor a manager or other responsible person who shall reside on the premises and superintend in person the operation or conduct of such rooming or boarding house and have complete charge thereof.

Sec. 4104—Register.

Every person to whom a license shall have been issued to conduct a rooming house, shall at all times keep a register, in which there shall be the names of all persons occupying rooms in such rooming house, with dates of arrival and dates of departure. Every person to whom a license shall have been issued to conduct a boarding house shall at all

CHAPTER 5.

SPECIAL LICENSING REGULATIONS RELATING TO TENEMENTS AND TENEMENT HOUSES

ARTICLE 510

INCORPORATION OF CHAPTERS 1, 2 AND 3 BY REFERENCE, SCOPE, LICENSING, AND REGISTRATION OF TENANTS

Section 5101—Incorporation of Chapters 1, 2, and 3 by Reference.

Chapters 1, 2, and 3 of these Housing Regulations of the District of Columbia are incorporated in this Chapter 5 by reference and made a part hereof, and the provisions contained in said Chapters 1, 2, and 3, together with the provisions contained in this Chapter 5, shall be applicable to premises used or held out for use as a tenement or tenement house: **Provided,** That whenever any provision contained in this Chapter 5 shall conflict with or supersede a provision contained in Chapters 1, 2, or 3, the provision contained in this Chapter shall be applicable.

Sec. 5102—Scope.

This Chapter 5 of The Housing Regulations of the District of Columbia shall be applicable to every building or part thereof occupied or used or held out for use as a tenement or tenement house.

Sec. 5103—Licensee.

No license to operate a tenement house business shall be issued to a person not a resident of the District of Columbia, unless such nonresident, as a condition of such license, appoints or employs and maintains an attorney-in-fact, general agent or manager who is a resident of the District of Columbia, and notifies the Superintendent of Licenses and Permits of such appointment or employment. Such licensee shall likewise notify the Superintendent of Licenses and Permits, within five (5) business days, of any change in the appointment or employment of such attorney-in-fact, general agent or manager. In all cases of a nonresident licensee, the attorney-in-fact, general agent or manager shall be liable to all penalties and provisions of these regulations whether the violation thereof be committed by the licensee or by the attorney-in-fact, general agent or manager, and notice of any action to be taken with respect to the revocation of the license issued such licensee may be served upon such attorney-in-fact, general agent or manager appointed or employed by such nonresident licensee. Upon certification to the Superintendent of Licenses and Permits by an officer of the District of Columbia required to serve notices in connection with the operation of

CHAPTER 6

ARTICLE 610

SPECIAL LICENSING REGULATIONS RELATING TO APARTMENT AND APARTMENT HOUSES

Section 6101.—Incorporation of Chapters 1, 2, and 3 by Reference.

Chapters 1, 2, and 3 of these Housing Regulations of the District of Columbia are incorporated in this Chapter 6 by reference and made a part hereof, and the provisions contained in said Chapters 1, 2, and 3, together with the provisions contained in this Chapter 6, shall be applicable to premises used or held out for use as an apartment or apartment house: **Provided,** That whenever any provision contained in this Chapter 6 shall conflict with or supersede a provision contained in Chapters 1, 2, or 3, the provision contained in this Chapter shall be applicable.

Sec. 6102.—Scope

This Chapter 6 of the Housing Regulations of the District of Columbia shall be applicable to every building or part thereof occupied or used or held out for use as an apartment or apartment house, whether tenant or owner occupied.

Sec. 6103.—License

6103.1 No license to operate an apartment house business shall be issued to a person not a resident of the District of Columbia, unless such non-resident, as a condition of such license, maintains an office in the District of Columbia, appoints or employs and maintains an attorney-in-fact, general agent or manager who is a resident of the District of Columbia, or maintains an office in said District, and notifies the Superintendent of Licenses and Permits of such appointment or employment. Such licensee shall likewise notify the Superintendent of Licenses and Permits, within five (5) business days, of any change in the appointment or employment of such attorney-in-fact, general agent or manager. In all cases of a non-resident licensee, notice of any action to be taken with respect to the license issued to such licensee may be served upon the attorney-in-fact, general agent or manager appointed or employed by such non-resident licensee.

CHAPTER 7.

SPECIAL LICENSING REGULATIONS RELATING TO HOTELS AND MOTELS

ARTICLE 710

INCORPORATION OF CHAPTERS 1, 2, AND 3 BY REFERENCE, AND SCOPE

Section 7101—Incorporation of Chapters 1, 2, and 3 by Reference.

Chapters 1, 2, and 3 of these Housing Regulations of the District of Columbia are incorporated in this Chapter 7 by reference and made a part hereof, and the provisions contained in said Chapters 1, 2, and 3, together with the provisions contained in this Chapter 7, shall be applicable to premises used or held out for use as a hotel or a motel: **Provided,** That whenever any provision contained in this Chapter 7 shall conflict with or supersede a provision contained in Chapters 1, 2, and 3, the provision contained in this Chapter shall be applicable. (C.O. 63-1354 of June 6, 1963)

Sec. 7102—Scope.

This Chapter 7 of The Housing Regulations of the District of Columbia shall be applicable to every building or part thereof occupied or used or held out for use as a hotel or a motel. (C.O. 63-1354 of June 6, 1963)

ARTICLE 720

OPERATION

Section 7201—Manager.

Where the licensee does not superintend in person the operation or conduct of the hotel or motel, he shall designate therefor a manager or other responsible person who shall superintend in person the operation or conduct of such hotel or motel and have complete charge thereof. (C.O. 63-1354 of June 6, 1963)

Sec. 7202—Register.

Every person to whom a license shall have been issued to conduct a hotel or a motel shall at all times keep a register, in which there shall be the names of each person occupying a rooming unit in such hotel or a motel, with date of arrival and date of departure. Each room shall be numbered and so indicated in the register. Such register shall be available for inspection by officials of the District of Columbia. (C.O. 63-1354 of June 6, 1963)

CHAPTER 8.

SPECIAL LICENSING REGULATIONS RELATING TO CONVALESCENT OR NURSING HOMES AND PERSONAL CARE HOMES

ARTICLE 810

GENERAL

Section 8101—Incorporation of Chapters 1, 2, and 3 by Reference.

Chapters 1, 2, and 3 of these Housing Regulations of the District of Columbia are incorporated in this Chapter 8 by reference and made a part hereof, and the provisions contained in said Chapters 1, 2, and 3, together with the provisions contained in this Chapter 8, shall be applicable to premises used or held out for use as a convalescent or nursing home or as a personal care home: **Provided,** That whenever any provision contained in this Chapter 8 shall conflict with or supersede a provision contained in Chapters 1, 2, or 3, the provision contained in this Chapter shall be applicable. (C.O. No. 60-1255)

Sec. 8102—Scope.

This Chapter 8 of the Housing Regulations of the District of Columbia shall be applicable to every building or part thereof occupied or used or held out for use as a convalescent or nursing home or personal care home. (C.O. No. 60-1255)

Sec. 8103—License.

8103.1 Convalescent home and personal care home licenses shall not be transferable. (C.O. No. 60-1255)

8103.2 No license to operate a convalescent home business shall be issued to a person not a resident of the District of Columbia, unless such nonresident, as a condition of such license, appoints or employs and maintains an attorney-in-fact, general agent or manager who is a resident of the District of Columbia, and notifies the Superintendent of Licenses and Permits of such appointment or employment. Such licensee shall likewise notify the Superintendent of Licenses and Permits, within five (5) business days, of any change in the appointment or employment of such attorney-in-fact, general agent or manager. In all cases of nonresident licensees, the attorney-in-fact, general agent or manager shall be liable to all penalties and provisions of these regulations whether the violation thereof be committed by the licensee or by the attorney-in-fact, general agent or manager, and notice of any action to be taken with respect to the revocation of the license issued such licensee may be served upon such attorney-in-fact, general agent or

ILLUMINATION
stairs, hallways 3204

INCINERATOR
fire-safe condition 3207.5

INCORPORATION OF CHAPTERS 1, 2 & 3
in chapter 4 4101
in chapter 5 5101
in chapter 7 7101
in chapter 8 8101

INDEPENDENCE OF SECTIONS
explanation of 1103, 2105

INSPECTION
responsibility for 3103

JANITOR
multiple dwellings 1204

KEYS
general 3203
hotel 7203
rooming house 4106

KITCHEN
construction of, convalescent home 8608
construction of, rooming & boarding 4207

KITCHEN SINK
connected with hot & cold water lines 2403.4
requirement 2403.1

LAVATORY
convalescent home 8502, 8709
dwelling, rooming unit 2403.2
food handling 4215
high density use in hotels 7303
required installation, location of 2403.6

LICENSE
convalescent home 8103

LICENSEE
tenement 5103

LICENSES
posting of 3105
revocation of 3302

LICENSING
for housing business 3102

LIGHTING
common space 2409
convalescent home 8602
halls, stairways 2409
where food or drink is stored, prepared or served 4204

LIGHT
convalescent home 8401
habitable room 2201, 2202

LIGHT & VENTILATION
obstructions to 2308